

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**ARELI VEGA REYNA, *et al.*,**

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**Plaintiffs,**

**CASE NO. 1:17-CV-1192-LO-TCB**

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**v.**

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**RUSSELL HOTTE, *et al.*,**

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**Defendants.**

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL DECLARATION**

Pursuant to E.D. Va. R. 7(F)(1), Defendants Russell Hott, et al. (“Defendants”) respectfully submit the instant memorandum of law in support of their motion for leave to file the Declaration of Adonnis T. Smith (“Smith Decl.”).

In their Reply memorandum, Defendants argued that the individual claims of Plaintiffs Macario Diaz Morales and Humberto Ramos Raygoza are moot because they have been released from immigration detention and, as “Plaintiffs themselves acknowledge, after their release on bond ordered by an immigration judge, [U.S. Immigration and Customs Enforcement (“ICE”)] can redetain Mr. Diaz Morales and Mr. Ramos Raygoza only ‘upon a finding of changed circumstances.’ Opp’n 10 (citing *Saravia v. Sessions*, No. 17-cv-03615, 2017 WL 5569838, at \*16 (N.D. Cal., Nov. 20, 2017) (quoting, in turn, *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981)).” Reply Mem. 12 (ECF No. 28).

Defendants seek leave to file the Smith Declaration to clarify that *Matter of Sugay* does not establish or recognize any binding authority requiring ICE to make a finding of changed circumstances before redetaining an alien previously released on bond ordered by an

immigration judge. As a matter of practice within the Defendant ICE Washington, D.C. Field Office, ICE does not redetain aliens who have been released on bond ordered by an immigration judge without a material change in circumstances. Such a change in circumstances can include, but is not limited to, an alien committing a new criminal offense, the failure to comply with a condition of release, or the issuance of an order of removal. Thus, because Mr. Diaz Morales and Mr. Ramos Raygoza's redetention is not reasonably foreseeable, their individual claims are moot. *See Preiser v. Newkirk*, 422 U.S. 395, 402-03 (1975).

Dated: February 5, 2018

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on February 5, 2018, I will file the foregoing document with the Clerk of Court through the Court's ECF system, which will then send a notification of electronic filing to counsel for all parties.

Dated: February 5, 2018

/s/ Hans H. Chen  
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